

Senate File 134 - Introduced

SENATE FILE _____
BY PUTNEY

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to legal actions involving disputed boundaries.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
3 TLSB 1016XS 82
4 da/je/5

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1 1 Section 1. Section 355.4, Code 2007, is amended to read as
1 2 follows:

1 3 355.4 BOUNDARY LOCATION.

1 4 The surveyor shall acquire data necessary to retrace record
1 5 title boundaries, center lines, and other boundary line
1 6 locations in accordance with the legal descriptions ~~including~~
~~1 7 applicable provisions of chapter 650 of the parcel or tract of~~
~~1 8 land being surveyed.~~ The surveyor shall analyze the data and
1 9 make a careful determination of the position of the boundaries
1 10 of the parcel or tract of land ~~being surveyed.~~ The surveyor
1 11 shall make a field survey, locating and connecting monuments
1 12 necessary for location of the parcel or tract and coordinate
1 13 the facts of the survey with the analysis and legal
1 14 description. The surveyor shall place monuments marking the
1 15 corners of the parcel or tract unless monuments already exist
1 16 at the corners.

1 17 Sec. 2. Chapter 650, Code 2007, is repealed.

1 18 EXPLANATION

1 19 This bill eliminates Code chapter 650, which provides
1 20 procedures for determining the boundaries between adjoining
1 21 tracts of land which cannot otherwise be established (e.g.,
1 22 the monuments marking the corners of the tract of land have
1 23 been lost or destroyed).

1 24 Currently, under Code chapter 650, an owner of land may
1 25 bring an action in district court in the county where the land
1 26 is located, and the court must appoint a commission of
1 27 surveyors who are required to make a report regarding the true
1 28 boundaries to the court within 60 days of the commission's
1 29 appointment (see Code section 650.11). The commission's
1 30 report is part of the record of a hearing between the affected
1 31 landowners who may contest the commission's findings. After
1 32 the hearing, the court must enter a decree for the
1 33 reestablishment of the boundaries which, subject to appeal, is
1 34 conclusive (see Code section 650.13). Importantly, Code
1 35 section 650.14 provides that if the land's boundaries have
2 1 been "recognized and acquiesced in" for ten years, those
2 2 boundaries are permanently established.

2 3 Code chapter 650 relates to a legal action brought under
2 4 common law to quiet title and to the common law doctrine of
2 5 adverse possession in which the wrongful possessor of land may
2 6 nevertheless acquire title to the land (to further the public
2 7 policy of barring stale claims, and comparable to the
2 8 operation of a statute of limitations). Code section 614.1
2 9 provides a 10-year period for the depossessed owner to bring an
2 10 action of ejectment. See Carpenter v. Ruperto, 315 N.W.2d 782
2 11 (Iowa 1982). Code section 650.14 is also related to the
2 12 equitable doctrine of acquiescence in which a property owner
2 13 who allows a neighbor in good faith to assume a boundary line
2 14 and build valuable improvements upon that land is estopped
2 15 from complaining about any resulting encroachment. See Ivener
~~2 16 v. Cowan~~, 175 N.W.2d 121 (Iowa 1970). In that case, the court
2 17 noted that an action could be brought under Code chapter 650
2 18 or under equity.

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